

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARCELA RUIZ, As Special Administrator	§	
For the Estate of Decedents	§	
ELIZABETH PERALTA-LUNA, Dec'd,	§	
DYLAN PERALTA, Deceased, and	§	
ELIZABETH PERALTA, Deceased	§	
Plaintiffs,	§	
	§	
vs.	§	No:
	§	
MONSON AND SONS, INC.,	§	
A Corporation and ZACHARY	§	
BARNGROVER, Individually,	§	
	§	
Defendants.	§	

NOTICE OF REMOVAL

Defendants MONSON AND SONS, INC., A Corporation, and ZACHARY BARNGROVER, Individually, (hereinafter "Defendants") hereby give Notice of the removal of this action to the United States District Court for the Northern District of Illinois, Eastern Division pursuant to 28 U.S.C. Section 1441 (b). In support of their removal, Defendants state as follows:

1. On or about March 9, 2015, Plaintiff MARICELA RUIZ as Special Administrator for the Estate of Decedents ELIZABETH PERALTA-LUNA, Deceased, DYLAN PERALTA, Deceased and ELIZABETH PERALTA, Deceased filed an action in the in the Circuit Court of Cook County, County Department, Law Division, styled *MARICELA RUIZ as Special Administrator for the Estate of Decedents ELIZABETH PERALTA-LUNA, Deceased, DYLAN PERALTA, Deceased and ELIZABETH PERALTA, Deceased, Plaintiffs v. MONSON AND SONS, INC., A Corporation, and ZACHARY BARNGROVER, Individually, Defendants*, Case Number 2015 L 2393.

2. Copies of "all process, pleadings, and orders served on" Defendants, including the Complaint, and a Motion to Preserve Evidence, are attached hereto and filed herewith. See 28 U.S.C. § 1446 (a).

3. Plaintiff Personal Representative alleges wrongful death actions of behalf of three decedents arising out of a vehicle-pedestrian incident on March 6, 2015. Because there is complete diversity between the parties, and the claims seek in excess of the jurisdictional limit of this court, this matter is properly removed to this court.

BASIS FOR REMOVAL

4. Removal is proper based upon the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 (a), as there is complete diversity of citizenship as between the parties, and the amount in controversy exceeds the sum of Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

5. As set forth in the Complaint, Plaintiff asserts a wrongful death cause of action against Defendant arising out of a vehicle-pedestrian accident on March 6, 2015

6. Plaintiff MARCELA RUIZ is the Special Administrator for the Estate of Decedents, ELIZABETH PERALTA-LUNA, DYLAN PERALTA and ELIZABETH PERALTA. DYLAN PERALTA and ELIZABETH PERALTA are children of ELIZABETH LUNA-PERALTA and are minors. Plaintiff filed this case pursuant to the Illinois Wrongful Death Act, 740 ILCS 180, et.seq. The statutory grant of diversity jurisdiction, 28 U.S.C. 1332 (c)(2) states, in pertinent part, that "the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State of the decedent, and the legal representative of an infant....shall be deemed to be a citizen only of the same State as the infant...."

7. Plaintiff's decedents, ELIZABETH PERALTA-LUNA, DYLAN PERALTA and ELIZABETH PERALTA were, prior to the subject accident, citizens of the State of Illinois, as they were domiciled in Chicago, Cook County, Illinois, and resided in Chicago, Illinois.

8. Defendant MONSON AND SONS, INC. was and is incorporated in the State of Iowa, has its principal place of business in Britt, Iowa, and pursuant to 28 U.S.C. Section 1332 (c)(1) is deemed to be a citizen of Iowa.

9. Defendant ZACHARY BARNGROVER was and is domiciled in Sioux City, Iowa, as his permanent home is in Sioux City Iowa, and defendant BARNGROVER is therefore a citizen of the State of Iowa.

10. Although Plaintiff has pleaded the general valuation ad damnum proscribed by the Circuit Court of Cook County, Illinois (i.e., “an amount in excess of \$50,000 dollars), this suit involves an incident allegedly resulting in the deaths of a thirty year old mother, and her two children, ages nine and four, respectively. If the Circuit Court of Cook County allowed for more than a general ad damnum, it is likely that an amount would have been sought that is in excess of this court’s seventy-five thousand dollar jurisdictional minimum.

11. Venue is proper in this Court under 28 U.S.C. §1446(a). This District and Division embrace the place in which the removed action has been pending.

12. Defendants have timely filed this Notice of Removal. Suit was filed March 9, 2015, and although formal service of summons and complaint have yet to be effected, the time for Defendants to file an appearance and responsive pleading has yet to run, and in any instance, this Notice of Removal is filed within 30 days of the filing of the suit, in accord with 28 U.S.C Section 1446(b). Defendants will promptly file a copy of this Notice of Removal, together with attachments, with the Clerk of the State Court in which the action has been pending. As reflected in the attached Certificate of Service, Defendants have served a copy of this Notice of Removal and attachments to Plaintiff’s counsel of record in the State Court action.

13. As noted above, Defendants have attached to this Notice a copy of all process, pleadings, and orders sent informally to Defendants, which consist of the Complaint (Exhibit “A” hereto) and a Motion to Preserve Evidence (Exhibit “B” hereto).

WHEREFORE Defendants respectfully request that all parties take notice that this action has been removed from the Circuit Court of Cook County, County Department, Law Division in accordance with the Federal Rules of Civil Procedure.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to opposing counsel as indicated, on this the 16th day of March, 2015 as follows:

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